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EXAMINER	
MCALLISTER, STEVEN B	

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/057,313	MCCOWN ET AL.	
	Examiner	Art Unit	
	Steven B. McAllister	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-19,21-23,25-28,32-35,37-40,42-44,46-48 and 50-69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-19,21-23,25-28,32-35,37-40,42-44,46-48 and 50-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 55, 59 and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 55, 59 and 63 recite having deck of sufficient strength to support at least 1750 psf, but it is not clear whether this is intended to mean the stress induced in the deck (i.e., the deck seeing a stress of 1750 psf), or whether it is intended to mean that the deck is strong enough to undergo an external loading of 1750 psf.

If it is intended to refer to the load which can be placed on the deck, a load defined in force per area, such as pounds per square feet, is a distributed load and is indefinite unless the area over which the load is to be applied is defined. For instance, applying 1750 psf over 1 square foot would apply a load of 1750 to the deck, but applying 1750 psf over 1000 square feet would apply a load of 1,750,000 pounds, although both supporting "at least about 1750 pounds per square foot". It is certainly conceivable that a deck could support the first load, but fail under the second.

Claim 21 is indefinite because it depends from a canceled claim. It was assumed to depend from claim 19.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 55, 59 and 63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 55, 59 and 63 recite that the deck has a strength sufficient to support "at least about 1,750" psf. The original disclosure, however, only discloses a deck in which "deck strength of the barge 12 is approximately 1,750 pounds per square feet". The original disclosure does not sufficiently describe the strength being "at least" 1750 psf so as to convey to one skilled in the art that the inventor had possession of the claimed invention at the time of application.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-19, 27, 28, 33, 37-40, 42-44 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar) and Backteman et al.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; loading freight in the inner volume of the containers; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; securing the container to the deck; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface

during lifting and positioning (see photos of Kalmar). Kalmar inherently shows loading the container since discusses loaded containers and the step of loading the container must inherently be performed (p. 11, line 2). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture. Backteman et al show securing the containers to the deck via twistlocks (co1. 1, lines 39-40; abstract, Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers as taught by Backteman et al in order to prevent the stacks of containers from tipping over.

As to claim 17, it is noted that Backetman et al show securing the containers to the deck by semiautomatic twistlocks.

As to claims 18 and 19, it is noted that Backetman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Backetman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers.

As to claim 33, it is inherent that the container is at least partially entered by a workman or vehicle in order to load since the workman or vehicle must handle the load.

As to claim 37, raising, lowering, rotating and inclining the gripping portion for each container is inherent in the reach stacker of Charles.

As to claims 38 and 39, each container has a pair of receptacles for spreader attachment adjacent the top edge of the container (Fig.1).

As to claim 40, Freeman in view of Backetman et al and Charles show all elements of the claim except securing the ramp with a longitudinal rail using a downwardly extending lip. However, it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly extending lip (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 42, Kalmar further shows that lifting and positioning include moving the gripping portion relative to the body portion of the vehicle and that the lifting and positioning steps are carried out without the use of outriggers (see photos of Kalmar).

As to claim 43, it is noted that Kalmar shows that positioning and lifting includes extending a boom of the vehicle (see photos).

As to claim 44, Kalmar shows that the vehicle does not include outrigger supports.

As to claim 67, Kalmar shows gripping and lifting each container along or adjacent an upper edge of the container (see e.g., photo on pg. 5 of Kalmar).

Claims 22, 23, 46-48 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers (col. 1, lines 28-30), transporting them with a vehicle from the ship to a warehouse on the dock, positioning them and placing them there (col. 1, lines 30-32). Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface during lifting and positioning (see photos of Kalmar). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 23, Freeman in view of Kalmar show all elements of the claim except securing the ramp to a longitudinal rail. However, it is old and well known in the art to

secure a ramp to a longitudinal rail (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 46, Kalmar further shows that lifting and positioning include moving the gripping portion relative to the body portion of the vehicle and that the lifting and positioning steps are carried out without the use of outriggers (see photos of Kalmar).

As to claim 47, it is noted that Kalmar shows that positioning and lifting includes extending a boom of the vehicle (see photos).

As to claim 48, it is noted that Kalmar show that the vehicle does not include outrigger supports.

As to claim 68, Kalmar shows gripping and lifting each container along or adjacent an upper edge of the container (see e.g., photo on pg. 5 of Kalmar).

Claims 21, 25, 26, 32, 34, 50-53, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

As to the base claim 25, Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28) including wheels which are configured to roll on a support surface; repeated lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship,

positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein or that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle, or that the wheels of the vehicle are in contact with the support surface during lifting and positioning steps. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally), and that the wheels are in contact with the support surface during lifting and positioning steps. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

As to claim 26, it is noted that in the method of Freeman in view of Kalmar, it is inherent that the vehicle release the container since the containers must be released to be stacked as shown.

As to claim 32, it is noted that Kalmar shows each container having a bottom, roof, and a plurality of side walls.

As to claim 34, it is noted that Freeman in view of Kalmar shows a reach stacker.

As to claim 50, it is noted that Kalmar shows that the lifting and positioning steps include moving the gripping portion relative to the body portion without the use of any outriggers (see photos).

As to claim 51, it is noted that Kalmar shows extending the boom during positioning and lifting.

As to claim 52, it is noted that the vehicle of Kalmar does not include outrigger supports.

As to claim 53, it is noted that Kalmar shows stacking at least three containers high (e.g., p. 9).

As to claim 69, Kalmar shows gripping and lifting each container along or adjacent an upper edge of the container (see e.g., photo on pg. 5 of Kalmar).

Claims 35 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Kalmar as applied to claim 25 above, and further in view of Backteman et al (3,691,595).

As to claim 35, it is noted that Freeman in view of Kalmar discloses towing the marine vessel since it discloses a barge and barges are towed. It does not disclose securing containers to a support surface. Backetman et al show securing the containers to the support surface via twist-locks. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers in order to prevent the stacks of containers from toppling over.

As to claim 54, Freeman in view of Kalmar and Backteman et al show all elements of the claim except a pointed bow on the ship. However, it is notoriously old and well known in the art to make a marine vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by using such a vessel in order to more easily cut through the water.

Regarding claims 55-66, it is noted that the claims do not point out any further limitation on the method, but rather provide apparatus limitations. The apparatus limitations are not further limiting on the claim. However, in order to further prosecution, the limitations have treated as is they were further limiting.

Claims 16-19, 21-23, 25-28, 32, 33, 55, 57, 59, 61, 63, and 65are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila et al (4,400,130) in view of Terho et al (3,794,196).

As to claims 16, 22 and 25, Anttila et al show selecting a plurality of containers comprising ISO spec containers; loading freight into the containers; providing a vehicle with a body portion and a gripping portion comprising at least a grabbling member 26 capable of being raised and lowered, rotated and inclined relative to the body portion; individually lifting and transporting by means of the vehicle to and from a storage deck of a marine vessel having sufficient strength to support the vehicle and the container; position each container at desired locations; and placing and securing the container to the deck (comprising securing the container to the deck via friction due to gravity).

Anttila et al do not explicitly show using a ramp to bring the containers aboard and take them ashore. Terho et al show using a ramp comprising a tail gate (col. 1, line 28). It would have been obvious to one of ordinary skill in the art to modify the method of Anttila et al by using a ramp as taught by Terho et al in order to facilitate loading where there is a discontinuity between the quay and the ship.

As to claims 16 and 17, alternatively, Anttila in view of Terho et al show all limitations except securing the container to the deck. However, securing the container to the deck via twist-locks (as disclosed in at least Terho et al) is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by securing the containers in order to prevent tipping or sliding.

As to claims 18 and 19, Terho shows vertical positioning via twistlocks.

As to claim 19, alternatively, Anttila in view of Terho et al show all limitations except securing the containers to each via twist-locks. However, doing so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by securing the containers via twist locks in order to prevent tipping or sliding.

As to claims 23, 26, 27, 32-34, 37, 42-44, 46-48, 50-52, and 54-66, Anttila in view of Terho shows all elements.

As to claim 28, Anttila shows grasping each container via the grabbers 26 and platform.

As to claim 38, Antilla show each container having opposed receptacles wherein a preader attachment is received into the receptacles during lifting and transporting.

As to claim 40, Antilla in view of Terho show all elements except the ramp having a downwardly extending lip coupling to a rail on the ship. However, it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly extending lip (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 54, Anttila in view of Terho show all elements of the claim except a pointed bow on the ship. However, it is notoriously old and well known in the art to make a marine vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by using such a vessel in order to more easily cut through the water.

As to claims 55, 59 and 63, Anttila in view of Terho show all elements of the claim except the deck strength of at least 1750 psf. However, it is notoriously old and well known in the art to make a deck of sufficient strength to support 750 psf. It would have been obvious to one of ordinary skill in the art to do so in order to maximize the payload which can be carried on the deck and therefore increase revenue.

As to claims 57, 61 and 65, Anttila in view of Terho show all elements except the length of the ramp being at least 75 feet. However, it is notoriously old and well known

in the art to build a ramp of at least 75 feet in length. It would have been obvious to one of ordinary skill in the art to do so in order to cross whatever open water is necessary and to minimize the angle, there increasing stability and minimizing power required.

As to claims 21, 34, 37, Anttila in view of Terho shows all elements of the claim except the use of a reach stacker. However, using a reach stacker to lift and transport is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by using a reach stacker in order to facilitate stacking.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila in view of Terho et al as applied to 25 above, and further in view of Backteman et al (3,691,595).

Anttila in view of Terho show all elements except securing the containers and towing the barge. Backteman show securing the containers. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by securing the containers as taught by Backteman in order to avoid tipping or sliding. As to towing the marine vessel, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method fo Anttila be towing away the marine vessel in order to make room for another ship to unload.

Claims 56, 58, 60, 62, 64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anttila in view of Terho et al as applied to 25 above, and further in view of Freeman (4,325,667).

Anttila in view of Terho show all elements except a vessel with a beam to length ratio of at least ¼. Freeman shows such a vessel. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by providing the beam to length ratio of Freeman in order to provide a stable vessel.

As to claims 58, 62, and 66, Anttila in view of Terho and Freeman show all elements except a pointed bow. However, making a marine vessel with a pointed bow is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Anttila by providing pointed bow in order to cut through the water more easily

Response to Arguments

Applicant's arguments filed 4/18/2005 have been fully considered but they are not persuasive.

Regarding the 112 2d rejection of claims 55, 59 and 63, Applicant is directed to the clarified rejection above.

As to Applicant's comments regarding the dissimilarity of the present claimed invention to the "roll on/roll off" methodology, the examiner understands the Applicant's point of view, but respectfully disagrees. Applicant argues that the prior art method is

dissimilar and incompatible with the claimed invention because of the great weight of a fully loaded reach stacker. However, it is noted that the broadest claims do not claim a reach stacker, and that a smaller vehicle could fulfill the limitations of the claim.

As to claim to Applicant's arguments that the apparatus of Anttila is different from the claimed apparatus, it is noted that the apparatus of Anttila has all claimed elements. While it is different than the disclosed apparatus and functions different, the examiner respectfully believes that it fulfills the claim limitations. The examiner believes that Anttila shows a spreader attachment comprising the structure holding the two grabbers 26 in a spread apart fashion, the grabber also providing part of the gripper.

Regarding applicant's traversals of the statements of old and well known subject matter, it is noted that the traversals are inadequate under MPEP 2144.03(C). In order to be adequate, a statement as to why the noticed fact is not considered to be common knowledge or well-known in the art, a statement of traversal, and a statement requesting a reference to be presented are required. It is further noted that the adequate traversal must be made in the subsequent reply to the Office Action which makes the assertion of old and well known subject matter. Per MPEP 2144.03(C), due to the inadequate traversal, the subject matter of the "old and well known" statements are considered to be admitted prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister
Primary Examiner
Art Unit 3627

Steven B. McAllister

STEVE B. MCALLISTER
PRIMARY EXAMINER